



City of New Bedford
Law Department

MATTHEW J. THOMAS

City Solicitor

ARTHUR J. CARON, JR.

Special Counsel

JANE MEDEIROS FRIEDMAN

Associate Solicitor

PATRICK T. WALSH

ERIC JAIKES

JOHN A. MARKEY, JR.

Assistant City Solicitors

October 15, 2004

Gregory Dain, Esq.
Senior Enforcement Counsel
United States Environmental Protection Agency
Region 1
1 congress Street, suite 1100
Boston, MA 02114-2023

RE: In the Matter of: City of New Bedford
Docket No. TSCA-1-2004-2023

Dear Mr. Dain:

Please find enclosed the Amended Consent Agreement and Final Order in the above referenced matter, which has been signed by Mayor Kalisz. Please provide me with a copy of the document once it has been fully executed. You have been very helpful and your assistance in this matter is greatly appreciated.

Sincerely yours,

Jane Medeiros Friedman
Associate Solicitor



City of New Bedford, Massachusetts
Purchasing Department

Jacqueline Coucci
Purchasing Agent

June 30, 2004

EPA – Region 1
P.O. Box 360197M
Pittsburgh, PA 15251

RE: In the Matter of:
City of New Bedford, Massachusetts
Respondent

Docket No: TSCA-1-2004-0052

To Whom It May Concern:

Enclosed, please find a check in the amount of \$27,500.00, pursuant to the civil penalty for violations alleged in the above-referenced Consent Agreement and Final Order.

Please do not hesitate to contact me at 508-979-1433 should you have any questions or comments.

Very truly yours,

Jacqueline Coucci
Chief Procurement Officer

Cc: Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
Suite 1100, Mail Code RCH
One Congress Street
Boston, MA 02114-2023

Gregory Dain
Sr. Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Suite 1100, Mail Code SEL
One Congress Street
Boston, MA 02114-2023

Greg Dain/R1/USEPA/US
07/06/2004 10:23 AM

To Jane Medeiros Friedman
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>
cc
bcc
Subject Re: FW: Status of McCoy Field

Thanks very much Jane. Do you know if the check was sent?
Jane Medeiros Friedman <Jane.Medeiros.Friedman@ci.new-bedford.ma.us>



Jane Medeiros
Friedman
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>

To: Greg Dain/R1/USEPA/US@EPA
cc:
Subject: FW: Status of McCoy Field

07/06/2004 10:13 AM

Greg:

In addition to the information below, I was advised that over 1500 tons of soil have been removed from the site, to date.

Jane Medeiros Friedman

> -----Original Message-----

> From: Jacqueline Coucci
> Sent: Tuesday, July 06, 2004 9:38 AM
> To: Jane Medeiros Friedman
> Subject: Status of McCoy Field

>

> Jane,

>

> As requested, here is the current status of McCoy Field:

>

> - One half of the slope has been excavated;
> - Awaiting more samples to be accomplished by BETA, in order to excavate 2nd 1/2 of the slope;
> - Currently installing the new drain and sewer line in the utility corridor;
> - Erosion control along wetland fence line;
> - Estimating completion in 5 weeks

>

> Please let me know if there is any further information needed.

>

> Jackie

>

>

> Jacqueline Coucci
> Purchasing Agent
> City of New Bedford
> 133 William Street, Rm 208
> New Bedford, MA 02740
> Tel: 508-979-1433 / Fax: 508-991-6148

>

Redacted, non-responsive
attorney/client privileged
emails. Rest of email chain is
responsive and releasable.

IS@EPA

Revision 3



Kimberly Tisa

12/08/2004 07:39 AM

To: Marianne Milette/R1/USEPA/US@EPA, Greg
Dain/R1/USEPA/US@EPA

cc:

Subject: Fw: McCoy - Work Plan Revision 3

I assume you have no issue with this revised schedule.....let me know or otherwise I'll just send an e-mail approving this change.

Kimberly Tisa, PCB Coordinator (CPT)
USEPA
1 Congress Street, Suite 1100
Boston, MA 02114-2023

617.918.1527 (PHONE)
617.918.0527 (FAX)
e-mail: tisa.kimberly@epa.gov

----- Forwarded by Kimberly Tisa/R1/USEPA/US on 12/08/2004 07:38 AM -----



Jackie Huggins
<JHuggins@BETA-Inc.
com>

12/07/2004 08:38 AM

To: Kimberly Tisa/R1/USEPA/US@EPA
cc: Alan Hanscom <AHanscom@BETA-Inc.com>
Subject: McCoy - Work Plan Revision 3

Kim,

As you know, Paragraph 20 of the Amended CAFO states that "Respondent shall complete all PCB activities described in the Work Plan as amended over time and approved by the EPA, by the dates specified in the Work Plan." The proposed schedule of work, included as Attachment Y to Work Plan Revision 3, set the Phase II Construction completion date at December 10, 2004. Attached is a revised schedule, with a completion date of February 28, 2005, for your review and approval.

Thanks,

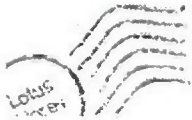


Jackie Attachment Y - Schedule Rev1.doc

Redacted, non-responsive
attorney/client privileged
emails. Rest of email chain is
responsive and releasable.

EPA
US@EPA

on 3



Kimberly Tisa

11/22/2004 08:29 AM

To: Jackie Huggins <JHuggins@BETA-Inc.com>
cc: Alan Hanscom <AHanscom@BETA-Inc.com>, Marianne
Milette/R1/USEPA/US@EPA, Greg Dain/R1/USEPA/US@EPA
Subject: Re: McCoy - Work Plan Revision 3

Jackie-

I did read the revised Final Work Plan dated November 5, 2004. It appears that the changes we discussed have been incorporated and as such I have no further comments. Therefore, we are "approving" this Work Plan and you may proceed with the work as described in this Work Plan.

Please note that any changes require notification and modification as previously discussed.

Kimberly Tisa, PCB Coordinator (CPT)
USEPA
1 Congress Street, Suite 1100
Boston, MA 02114-2023

617.918.1527 (PHONE)
617.918.0527 (FAX)
e-mail: tisa.kimberly@epa.gov

Jackie Huggins <JHuggins@BETA-Inc.com>



Jackie Huggins
<JHuggins@BETA-Inc.com>

11/19/2004 04:20 PM

To: Kimberly Tisa/R1/USEPA/US@EPA
cc: Alan Hanscom <AHanscom@BETA-Inc.com>
Subject: McCoy - Work Plan Revision 3

Kim,

Should BETA be expecting a letter or e-mail stating that the EPA has approved Work Plan Revision 3?

Also, Paragraph 20 of the Amended CAFO states that "Respondent shall complete all PCB activities described in the Work Plan as amended over time and approved by the EPA, by the dates specified in the Work Plan." The proposed schedule of work is included as Attachment Y to Work Plan Revision 3. Either Alan or I will be in touch with you in the near future to discuss amending the proposed end date of Phase II Construction (set as December 10, 2004 in Attachment Y) to reflect the current projection.

Have a great Thanksgiving!

Greg Dain/R1/USEPA/US
09/20/2004 04:45 PM

To Jane Medeiros Friedman
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>
cc
bcc
Subject Re: McCoy Field CAFO 

Jane,

Attached is a redline/strike-out version of the CAFO, which addresses the issue we talked about the other day. Let me know if you think this works. I modified paragraphs 18, 20, 22 and 28. You'll notice that we need to decide on a date for paragraph 20, or should we just use something like "in accordance with the time frames set forth in the Work Plan." (?)

If you can't see the changes in your word processing program, let me know and I will fax it over to you.

Greg



New_Bedford_Draft_CAFO_09.20.04_Modified.wpd

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

_____)
In the Matter of:)
_____)
City of New Bedford, Massachusetts)
_____)
Respondent)
_____)

Docket No. TSCA-1-2004-0052

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), alleges that the City of New Bedford, Massachusetts (the "City" or "Respondent") violated sections of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 *et seq.*, and the Act's implementing regulations, "Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce and Use Prohibitions," 40 C.F.R. Part 761. EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order ("CAFO") without the filing of an administrative complaint, as authorized under 40 CFR § 22.13(b).

The EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

Therefore, without taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

A. PRELIMINARY STATEMENT

1. This is an administrative action for the assessment of monetary penalties and other

relief pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for alleged violations of Section 15 of TSCA, 15 U.S.C. §2614. Section 15(1)(C) states that it shall be unlawful for any person to fail to comply with any rule promulgated under Section 6 of TSCA, 15 U.S.C. §2605.

2. The PCB regulations were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e).

3. The PCB regulations “establish prohibitions of, and requirements for, the manufacturing, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.” 40 C.F.R. § 761.1(a).

4. Respondent is a "person" as defined by 40 C.F.R. § 761.3 and as such is subject to TSCA and the regulations promulgated thereunder.

5. Respondent is a political subdivision of the Commonwealth of Massachusetts.

6. Respondent owns and controls real property, which is the subject of this action, and is located in the City of New Bedford, Massachusetts (the "Site"). The property is commonly referred to as McCoy Field, and is located on Hathaway Boulevard. The City of New Bedford acquired the McCoy Field site through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 849, Page 329, which includes Plat 69, Lots 125-132 and 135-142; and through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 885, Page 401, which includes Plat 75, Lots 167-174, 177-184, 209-228, 292-342.

7. In the late 1960s, material that consisted of, among other things, ash, construction and demolition debris, glass and brick, was excavated from a City of New Bedford "burn dump" area located across the street from the Site. At least some portion of this excavated material contained PCBs. The excavated material was stockpiled by Respondent at the Site.

8. In or about 1994, the stockpiled material referenced in paragraph 7, above, was spread out and graded at the Site by Respondent for the purpose of constructing athletic fields. The Site is not currently in use and has now been closed by the Respondent.

9. On or about April 12, 2000, Respondent initiated geotechnical investigations at the Site, which included, among other things, initial chemical analyses and soil sampling. Beginning on or about February 23, 2004, Respondent began conducting more extensive analytical sampling of soil, fill and organic silt at the Site, in preparation for planned excavations required for the installation of underground utilities associated with a public school building Respondent plans to construct at the Site. On or about March 9, 2004, Respondent obtained laboratory analytical results of the sampling, indicating that PCBs were present in soil samples collected along the proposed utility corridor at concentrations ranging from non-detect to greater than 50 parts per million (ppm). One of the thirty-nine subsurface samples taken exceeded 50 ppm, i.e. 61.4 ppm. Subsequent subsurface sampling has revealed additional analytical results of PCBs in concentrations greater than 50 ppm at the Site. Prior to March 9, 2004, the highest concentration of PCBs detected at the Site was 18 ppm.

10. EPA learned of the facts set forth in paragraphs 7 through 9, above, in March of 2004.

B. ALLEGATIONS

11. EPA alleges that, as a result of the activities referenced in paragraphs 7 through 9, above, Respondent violated Section 6(e) of TSCA and the PCB regulations.

12. EPA alleges that in or about 1994, Respondent diluted PCB Remediation Waste (as defined at 40 C.F.R. §761.3) in violation of 40 CFR §761.1(b)(5). Respondent alleges that its dilution of PCB Remediation Waste was inadvertent.

13. EPA alleges that in or about 1994, Respondent improperly disposed of the PCB Remediation Waste referenced in paragraphs 7 through 9, above, and further alleges that Respondent has to date not cleaned up and disposed of the PCB Remediation Waste in accordance with the requirements found at 40 C.F.R. §761.61.

C. TERMS OF SETTLEMENT

14. Section 16(a) of TSCA, together with the Civil Monetary Penalty Inflation Rule (40 C.F.R. Part 19), authorize the assessment of a civil administrative penalty of up to \$32,500 per day for each violation. Based on the violations alleged in paragraphs 11 and 13, above, and taking into account the penalty assessment criteria of Section 16(a) of TSCA, EPA has proposed to assess a civil penalty of \$27,500.

15. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns.

16. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue, and,

without admitting or denying the factual allegations contained in this CAFO, consents to its terms.

17. Respondent hereby waives its right to contest any issue of law or fact set forth in the Consent Agreement and its right to appeal the Final Order accompanying this Consent Agreement.

PCB-IMPACTED WASTE REMOVAL IN UTILITY CORRIDORS
AND AT PILE CAP AND GRADE BEAM LOCATIONS

18. Respondent shall conduct sampling and shall perform a removal of the PCB contamination located at the Site, and in those areas adjacent to the Site where PCBs may have migrated from the Site as a result of the activities referenced in paragraphs 8 and 9 of this CAFO, ~~in the proposed utility corridors and in the vicinity of the proposed building pile caps and grade beams at the Site,~~ in accordance with the Work Plan, as amended over time and approved by EPA (the "Work Plan"). For any areas adjacent to the Site, from which Respondent removes PCBs, Respondent certifies that it has obtained lawful and effective access agreements from the owner(s) of such property. The Work Plan is included as Attachment 1 to this CAFO and is hereby incorporated by reference. By entering into this CAFO, EPA is not certifying that the transporters or disposal facilities referenced in the Work Plan are legally authorized to conduct the activities set forth in the Work Plan. It shall be Respondent's responsibility to make such determinations.

19. Respondent has initiated a series of public meetings and associated activities to address public concerns related to the upcoming construction activities at the Site. At a minimum, such public hearings have included or will include:

October 30, 2000: public meeting held by Respondent to inform the public that the Site was the intended location for the new Keith Middle School, and that the school's overall design and construction would include addressing environmental concerns at the Site.

April 7, 2004: public meeting at Keith Junior High School Auditorium regarding construction activities to be performed under the first environmental contract, including removal off-site of PCB-contaminated materials. During this meeting, Respondent discussed in detail the process for disposing of PCB-contaminated material at a location outside of New Bedford. That discussion also addressed the public's concerns about the routes that will be taken by the disposal trucks, and associated dirt and dust control issues.

April 28, 2004: community meeting at Keith Junior High School Auditorium to present overall building program for new Keith Middle School at the Site.

May 5, 2004: first Public Involvement Plan ("PIP") meeting at Keith Junior High School Auditorium to present the PIP and solicit input from the public.

Subsequent public meetings will be scheduled by Respondent, based upon the results of the PIP meetings.

20. ~~On or before September 30, 2004,~~ On or before [date], Respondent shall complete all PCB activities described in the Work Plan.

21. Within 30 days of the completion of PCB activities described in the Work Plan, Respondent shall submit a certification to EPA Region 1, at the address provided below, signed by a city official authorized to do so on behalf of the City of New Bedford, that the activities in the proposed utility corridors and the locations of the proposed pile caps and grade beams were

completed in accordance with the provisions of this CAFO and the Work Plan. The certification shall include a short summary of the activities, copies of PCB waste shipment manifests, bills of lading, the total quantity of PCB-contaminated waste disposed of (in pounds) based on concentrations of less than 50ppm (< 50ppm) and greater than or equal to 50ppm (\geq 50ppm), and any certificates of disposal received as of the date of certification. All submissions required by this Order shall be sent to:

Kimberly Tisa, PCB Coordinator
U.S. Environmental Protection Agency
One Congress Street, Suite 1100 (CPT)
Boston, MA 02114-2023
(617) 918- 1527
FAX (617) 918- 0527

CLEANUP OF REMAINDER OF THE SITE

22. EPA and Respondent agree that the requirements for cleanup of any PCB contamination ~~at the Site~~ in areas other than those referenced in paragraph 18 of this CAFO and contained in the EPA-approved Work Plan ~~the utility corridors and the locations of the proposed pile caps and grade beams (referenced in paragraphs 18 through 20 above)~~ are not being addressed in this CAFO. EPA expressly reserves all its rights to ensure in the future that Respondent undertakes all appropriate cleanup measures to address PCB contamination at the Site, in areas other than those referenced in paragraph 18 of this CAFO and contained in the EPA-approved Work Plan ~~the utility corridors and the locations of the proposed pile caps and grade beams~~, in accordance with 40 CFR 761.61. Moreover, nothing in this CAFO shall be construed to limit in

any way EPA's or the Massachusetts Department of Environmental Protection's authority to address at the Site pollutants or contaminants of any kind other than PCBs.

23. Pursuant to Section 16 of TSCA, and taking into account the facts recounted in this CAFO and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of twenty-seven thousand, five hundred dollars (\$27,500).

24. Respondent shall pay the penalty of twenty-seven thousand, five hundred dollars (\$27,500) within thirty (30) days of the date this Consent Agreement and Final Order is signed by the EPA Regional Judicial Officer.

25. Respondent shall pay the penalty by submitting a certified or cashier's check to the order of the "Treasurer, United States of America" and in the required amount to:

EPA - Region 1
P.O. Box 360197M
Pittsburgh, PA 15251

Respondent shall note the case name and docket number of this action on the check, and shall provide copies of the check to:

Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 1
Suite 1100, Mail Code RCH
One Congress Street
Boston, MA 02114-2023

and

Gregory Dain
Senior Enforcement Counsel
U.S. Environmental Protection
Agency, Region 1
Suite 1100, Mail Code SEL
One Congress Street
Boston, MA 02114-2023

26. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days of the entry of the CAFO. Pursuant to Section 309(g)(9), 33 U.S.C. §1319(g)(9), a failure by Respondent to pay the penalty assessed by the CAFO in full by its due date shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date of the final order. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. §3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

27. The civil penalty under this CAFO, and any interest, nonpayment penalties and charges described in this CAFO, shall represent penalties assessed by EPA and shall not be

deductible for purposes of federal taxes.

28. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the violations alleged in this CAFO only as to the PCB-contaminated soils in the areas referenced in paragraph 18 of this CAFO and contained in the EPA-approved Work Plan, as amended from time to time ~~the utility areas and the locations of the proposed pile caps and grade beams identified in paragraphs 18 through 20, above.~~ EPA expressly reserves all its rights to address violations of Section 16(a) of TSCA relating to PCB-contaminated areas of the site other than the areas identified in the EPA-approved Work Plan, as amended from time to time. ~~paragraphs 18 through 20, above.~~ Moreover, nothing in this CAFO shall be construed to limit in any way EPA's or the Massachusetts Department of Environmental Protection's authority to address pollutants or contaminants of any kind other than PCBs that may exist at the Site. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

29. The parties shall bear their own costs and fees in this action.

30. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

For Respondent:

Name

Title

Date

For Complainant:

Joel Blumstein
Acting Manager, Enforcement Unit
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date

C. FINAL ORDER


In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective immediately.

Sharon Wells
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

Date

Greg Dain/R1/USEPA/US
09/23/2004 02:04 PM

To Jane Medeiros Friedman
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>
cc Marianne Milette/R1/USEPA/US@EPA, Kimberly
Tisa/R1/USEPA/US@EPA
bcc
Subject Re: FW: Status of McCoy Field 

Jane,

Maryanne Milette had a few suggestions that I have now incorporated into this latest draft. All of the changes from the original agreement are in redline/strikeout text.

Please let me know if these changes are o.k. with you and your technical contractor, so that we can process this amendment on a time frame that works for the activities your contractor is planning at the Site.

Thanks.

Greg



New_Bedford_Draft_CAFO_09.23.04_Modified.wpd

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	
City of New Bedford, Massachusetts)	Docket No. TSCA-1-2004-0052
)	
Respondent)	
)	

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), alleges that the City of New Bedford, Massachusetts (the "City" or "Respondent") violated sections of the Toxic Substances Control Act ("TSCA), 15 U.S.C. §§ 2601 *et seq.*, and the Act's implementing regulations, "Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce and Use Prohibitions," 40 C.F.R. Part 761. EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order ("CAFO") without the filing of an administrative complaint, as authorized under 40 CFR § 22.13(b).

The EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

Therefore, without taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

A. PRELIMINARY STATEMENT

1. This is an administrative action for the assessment of monetary penalties and other

relief pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for alleged violations of Section 15 of TSCA, 15 U.S.C. §2614. Section 15(1)(C) states that it shall be unlawful for any person to fail to comply with any rule promulgated under Section 6 of TSCA, 15 U.S.C. §2605.

2. The PCB regulations were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e).

3. The PCB regulations “establish prohibitions of, and requirements for, the manufacturing, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.” 40 C.F.R. § 761.1(a).

4. Respondent is a "person" as defined by 40 C.F.R. § 761.3 and as such is subject to TSCA and the regulations promulgated thereunder.

5. Respondent is a political subdivision of the Commonwealth of Massachusetts.

6. Respondent owns and controls real property, which is the subject of this action, and is located in the City of New Bedford, Massachusetts (the "Site"). The property is commonly referred to as McCoy Field, and is located on Hathaway Boulevard. The City of New Bedford acquired the McCoy Field site through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 849, Page 329, which includes Plat 69, Lots 125-132 and 135-142; and through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 885, Page 401, which includes Plat 75, Lots 167-174, 177-184, 209-228, 292-342.

7. In the late 1960s, material that consisted of, among other things, ash, construction and demolition debris, glass and brick, was excavated from a City of New Bedford "burn dump" area located across the street from the Site. At least some portion of this excavated material contained PCBs. The excavated material was stockpiled by Respondent at the Site.

8. In or about 1994, the stockpiled material referenced in paragraph 7, above, was spread out and graded at the Site by Respondent for the purpose of constructing athletic fields. The Site is not currently in use and has now been closed by the Respondent.

9. On or about April 12, 2000, Respondent initiated geotechnical investigations at the Site, which included, among other things, initial chemical analyses and soil sampling. Beginning on or about February 23, 2004, Respondent began conducting more extensive analytical sampling of soil, fill and organic silt at the Site, in preparation for planned excavations required for the installation of underground utilities associated with a public school building Respondent plans to construct at the Site. On or about March 9, 2004, Respondent obtained laboratory analytical results of the sampling, indicating that PCBs were present in soil samples collected along the proposed utility corridor at concentrations ranging from non-detect to greater than 50 parts per million (ppm). One of the thirty-nine subsurface samples taken exceeded 50 ppm, i.e. 61.4 ppm. Subsequent subsurface sampling has revealed additional analytical results of PCBs in concentrations greater than 50 ppm at the Site. Prior to March 9, 2004, the highest concentration of PCBs detected at the Site was 18 ppm.

10. EPA learned of the facts set forth in paragraphs 7 through 9, above, in March of 2004.

B. ALLEGATIONS

11. EPA alleges that, as a result of the activities referenced in paragraphs 7 through 9, above, Respondent violated Section 6(e) of TSCA and the PCB regulations.

12. EPA alleges that in or about 1994, Respondent diluted PCB Remediation Waste (as defined at 40 C.F.R. §761.3) in violation of 40 CFR §761.1(b)(5). Respondent alleges that its dilution of PCB Remediation Waste was inadvertant.

13. EPA alleges that in or about 1994, Respondent improperly disposed of the PCB Remediation Waste referenced in paragraphs 7 through 9, above, and further alleges that Respondent has to date not cleaned up and disposed of the PCB Remediation Waste in accordance with the requirements found at 40 C.F.R. §761.61.

C. TERMS OF SETTLEMENT

14. Section 16(a) of TSCA, together with the Civil Monetary Penalty Inflation Rule (40 C.F.R. Part 19), authorize the assessment of a civil administrative penalty of up to \$32,500 per day for each violation. Based on the violations alleged in paragraphs 11 and 13, above, and taking into account the penalty assessment criteria of Section 16(a) of TSCA, EPA has proposed to assess a civil penalty of \$27,500.

15. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns.

16. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue, and,

without admitting or denying the factual allegations contained in this CAFO, consents to its terms.

17. Respondent hereby waives its right to contest any issue of law or fact set forth in the Consent Agreement and its right to appeal the Final Order accompanying this Consent Agreement.

PCB-IMPACTED WASTE REMOVAL IN UTILITY CORRIDORS
AND AT PILE CAP AND GRADE BEAM LOCATIONS

18. Respondent shall conduct sampling and shall perform a removal of the PCB contamination located at the Site, and in those areas in proximity to the Site where PCBs may have migrated or been disposed of as a result of the activities referenced in paragraphs 8 and 9 of this CAFO, ~~in the proposed utility corridors and in the vicinity of the proposed building pile caps and grade beams at the Site,~~ in accordance with the Work Plan, as amended over time and approved by EPA (the "Work Plan"). For any areas in proximity to the Site, from which Respondent removes PCBs, Respondent certifies that it has obtained lawful and effective access agreements from the owner(s) of such property. The Work Plan is included as Attachment 1 to this CAFO and is hereby incorporated by reference. By entering into this CAFO, EPA is not certifying that the transporters or disposal facilities referenced in the Work Plan are legally authorized to conduct the activities set forth in the Work Plan. It shall be Respondent's responsibility to make such determinations.

19. Respondent has initiated a series of public meetings and associated activities to address public concerns related to the upcoming construction activities at the Site. At a minimum, such public hearings have included or will include:

October 30, 2000: public meeting held by Respondent to inform the public that the Site was the intended location for the new Keith Middle School, and that the school's overall design and construction would include addressing environmental concerns at the Site.

April 7, 2004: public meeting at Keith Junior High School Auditorium regarding construction activities to be performed under the first environmental contract, including removal off-site of PCB-contaminated materials. During this meeting, Respondent discussed in detail the process for disposing of PCB-contaminated material at a location outside of New Bedford. That discussion also addressed the public's concerns about the routes that will be taken by the disposal trucks, and associated dirt and dust control issues.

April 28, 2004: community meeting at Keith Junior High School Auditorium to present overall building program for new Keith Middle School at the Site.

May 5, 2004: first Public Involvement Plan ("PIP") meeting at Keith Junior High School Auditorium to present the PIP and solicit input from the public.

Subsequent public meetings will be scheduled by Respondent, based upon the results of the PIP meetings.

20. ~~On or before September 30, 2004,~~ Respondent shall complete all PCB activities described in the Work Plan as amended over time and approved by EPA, by the dates specified in the Work Plan.

21. Within 30 days of the completion of PCB activities described in the Work Plan, Respondent shall submit a certification to EPA Region 1, at the address provided below, signed by a city official authorized to do so on behalf of the City of New Bedford, that the activities in

the proposed utility corridors and the locations of the proposed pile caps and grade beams were completed in accordance with the provisions of this CAFO and the Work Plan. The certification shall include a short summary of the activities, copies of PCB waste shipment manifests, bills of lading, the total quantity of PCB-contaminated waste disposed of (in pounds) based on concentrations of less than 50ppm ($< 50\text{ppm}$) and greater than or equal to 50ppm ($\geq 50\text{ppm}$), and any certificates of disposal received as of the date of certification. All submissions required by this Order shall be sent to:

Kimberly Tisa, PCB Coordinator
U.S. Environmental Protection Agency
One Congress Street, Suite 1100 (CPT)
Boston, MA 02114-2023
(617) 918- 1527
FAX (617) 918- 0527

CLEANUP OF REMAINDER OF THE SITE

22. EPA and Respondent agree that the requirements for cleanup of any PCB contamination ~~at the Site~~ in areas other than those referenced in paragraph 18 of this CAFO and contained in the Work Plan as amended over time and approved by EPA ~~the utility corridors and the locations of the proposed pile caps and grade beams (referenced in paragraphs 18 through 20 above)~~ are not being addressed in this CAFO. EPA expressly reserves all its rights to ensure in the future that Respondent undertakes all appropriate cleanup measures to address PCB contamination at the Site, in areas other than those referenced in paragraph 18 of this CAFO and contained in the Work Plan as amended over time and approved by EPA ~~the utility corridors and~~

~~the locations of the proposed pile caps and grade beams~~, in accordance with 40 CFR 761.61.

Moreover, nothing in this CAFO shall be construed to limit in any way EPA's or the Massachusetts Department of Environmental Protection's authority to address at the Site pollutants or contaminants of any kind other than PCBs.

23. Pursuant to Section 16 of TSCA, and taking into account the facts recounted in this CAFO and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of twenty-seven thousand, five hundred dollars (\$27,500).

24. Respondent shall pay the penalty of twenty-seven thousand, five hundred dollars (\$27,500) within thirty (30) days of the date this Consent Agreement and Final Order is signed by the EPA Regional Judicial Officer.

25. Respondent shall pay the penalty by submitting a certified or cashier's check to the order of the "Treasurer, United States of America" and in the required amount to:

EPA - Region 1
P.O. Box 360197M
Pittsburgh, PA 15251

Respondent shall note the case name and docket number of this action on the check, and shall provide copies of the check to:

Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 1
Suite 1100, Mail Code RCH
One Congress Street

Boston, MA 02114-2023

and

Gregory Dain
Senior Enforcement Counsel
U.S. Environmental Protection
Agency, Region 1
Suite 1100, Mail Code SEL
One Congress Street
Boston, MA 02114-2023

26. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days of the entry of the CAFO. Pursuant to Section 309(g)(9), 33 U.S.C. § 1319(g)(9), a failure by Respondent to pay the penalty assessed by the CAFO in full by its due date shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date of the final order. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount,

and appropriateness of the penalty shall not be subject to review.

27. The civil penalty under this CAFO, and any interest, nonpayment penalties and charges described in this CAFO, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

28. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the violations alleged in this CAFO only as to the PCB-contaminated soils in the areas referenced in paragraph 18 of this CAFO and contained in the Work Plan, as amended over time and approved by EPA ~~the utility areas and the locations of the proposed pile caps and grade beams identified in paragraphs 18 through 20, above.~~ EPA expressly reserves all its rights to address violations of Section 16(a) of TSCA relating to PCB-contaminated areas of the site other than the areas identified in the Work Plan, as amended over time and approved by EPA. ~~paragraphs 18 through 20, above.~~ Moreover, nothing in this CAFO shall be construed to limit in any way EPA's or the Massachusetts Department of Environmental Protection's authority to address pollutants or contaminants of any kind other than PCBs that may exist at the Site. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

29. The parties shall bear their own costs and fees in this action.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

30. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

For Respondent:

Name

Title

Date

For Complainant:

Joel Blumstein
Acting Manager, Enforcement Unit
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

C. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective immediately.

Sharon Wells
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

Date



Jane Medeiros
Friedman
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>

To: Greg Dain/R1/USEPA/US@EPA
cc:
Subject: McCoy Field

04/09/2004 11:57 AM

Attorney Dain:

I'm still waiting for information needed to fill in the blanks, so I will need to get that to you on Monday. I did have an opportunity to review the deeds and the Plat and Lot info included with the NOI and I believe the following provides a clearer explanation of the City's ownership of the site:

The City of New Bedford acquired the McCoy Field site through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 849, Page 329, which includes Plat 69, Lots 125-132 and 135-142; and through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 885, Page 401, which includes Plat 75, Lots 167-174, 177-184, 209-228, 292-342.

The City's comments with regard to the language are limited to those issues we already discussed. However, I provided a copy to the Consent Agreement to the City's LSP, Alan Hanscom and, unfortunately, we have been missing each others phone calls. As soon as I hear back from him I will let you know if there are any additional comments.

Thanks.

Jane

Medeiros Friedman

Jane Medeiros Friedman, Esq.
Associate Solicitor ~ City of New Bedford
133 William Street
New Bedford, MA 02740
Tel: 508-979-1460
Fax: 508-979-1515

Notice of Confidentiality:

This transmission contains information from the City of New Bedford Law Department that may be confidential and that may also be privileged. Unless you are the intended recipient of the message (or authorized to receive it for the intended recipient), you may not copy, forward, or otherwise use it, or disclose its contents to anyone else. If you have received this transmission in error, please notify us immediately and delete it from your system.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

OCT 17 2004

Jane Medeiros Friedman, Esq.
Associate Solicitor - City of New Bedford
133 William Street
New Bedford, Massachusetts 02740

Re: In the Matter of: City of New Bedford; Docket No. TSCA-1-2004-0052

Dear Ms. Friedman:

Please find enclosed a draft of the amended Consent Agreement and Final Order (the "Agreement") for the above-referenced matter. Please have the appropriate city official sign the Agreement and return it to me. Once I receive the signed Agreement from you, I will have the appropriate EPA officials sign the Agreement.

Thank you for your cooperation in this matter. If you have any questions, please call me at (617) 918-1884.

Sincerely,

A handwritten signature in cursive script, reading "Gregory Dain", is written over the typed name.

Gregory Dain
Senior Enforcement Counsel

cc: Marianne Milette, EPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)

City of New Bedford, Massachusetts)

Respondent)

Docket No. TSCA-1-2004-0052

AMENDED CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), and Respondent, the City of New Bedford, Massachusetts (the "City" or "Respondent") entered into a Consent Agreement and Order that became effective on May 21, 2004 (the "original Order"), and which resolved Respondent's liability for certain violations of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 *et seq.*, and the Act's implementing regulations, "Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce and Use Prohibitions," 40 C.F.R. Part 761.

Paragraph 18 of the original Order addressed areas of Respondent's property from which Respondent agreed to remove and properly dispose of PCB-impacted waste. Paragraph 20 of the original Order specified the date by which the activities set forth in paragraph 18 would be completed by Respondent.

Subsequent to execution of the original Order, EPA and Respondent realized that areas in addition to those set forth in paragraph 18 of the original Order would need to have PCB-impacted waste removed from them, and that the original September 30, 2004 completion date for the PCB-impacted waste removal could not be met, through no fault of Respondent.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

Accordingly, EPA and Respondent have agreed to amend the original Order to include additional areas from which PCB-impacted waste will be removed and properly disposed of by Respondent. In addition, EPA and Respondent have also agreed to set a new date for completion of the PCB-impacted waste removal.

Therefore, upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

The terms of the original Order and its attachments remain effective and are incorporated herein by reference with the exception of paragraphs 18, 20, 22 and 28, which are hereby amended as follows:

PCB-IMPACTED WASTE REMOVAL

18. Respondent shall conduct sampling and shall perform a removal of PCB contamination located at the Site, and in those areas in proximity to the Site where PCBs may have migrated or been disposed of as a result of the activities referenced in paragraphs 7 and 8 of this CAFO, in accordance with the May 14, 2004 Work Plan, as amended over time and approved by EPA (the "Work Plan"). For any areas in proximity to the Site from which Respondent removes PCBs, Respondent certifies that it has obtained lawful and effective access agreements from the owner(s) of such property. The Work Plan is included as Attachment 1 to the original Order. By entering into this CAFO, EPA is not certifying that the transporters or disposal facilities referenced in the Work Plan are legally authorized to conduct the activities set forth in the Work Plan. It shall be Respondent's responsibility to make such determinations.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

Moreover, nothing in this CAFO shall be construed to limit in any way EPA's or the Massachusetts Department of Environmental Protection's authority to address pollutants or contaminants of any kind other than PCBs that may exist at the Site. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

For Respondent:

Name

Title

Date

For Complainant:

Ken Moraff
Manager, Enforcement Office
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective immediately.

Sharon Wells
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

Date

Greg Dain/R1/USEPA/US
09/30/2004 11:21 AM

To Jane Medeiros Friedman
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>
cc Kimberly Tisa/R1/USEPA/US@EPA, Marianne
Milette/R1/USEPA/US@EPA
bcc
Subject New Bedford CAFO amendment

Jane,

Here is a draft of the amended agreement as it would actually look. Please let me know if this is acceptable, and we can begin the process of executing the amended agreement.

Thanks. Greg.



New_Bedford_Draft_CAFO_09.30.04_Modified.wpd

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	
City of New Bedford, Massachusetts)	Docket No. TSCA-1-2004-0052
)	
Respondent)	
)	

AMENDED CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), and Respondent the City of New Bedford, Massachusetts (the "City" or "Respondent") entered into a Consent Agreement and Order that became effective on May 21, 2004 (the "original Order"), and which resolved Respondent's liability for certain violations of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 *et seq.*, and the Act's implementing regulations, "Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce and Use Prohibitions," 40 C.F.R. Part 761.

Paragraph 18 of the original Order addressed areas of Respondent's property from which Respondent agreed to remove and properly dispose of PCB-impacted waste. Paragraph 20 of the original Order specified the date by which the activities set forth in paragraph 18 would be completed by Respondent.

Subsequent to execution of the original Order, EPA and Respondent realized that areas in addition to those set forth in paragraph 18 of the original Order would need to have PCB-impacted waste removed from them, and that the original September 30, 2004 completion date for the PCB-impacted waste removal could not be met, through no fault of Respondent.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

Accordingly, EPA and Respondent have agreed to amend the original Order to include additional areas from which PCB-impacted waste will be removed and properly disposed of by Respondent. In addition, EPA and Respondent have also agreed to set a new date for completion of the PCB-impacted waste removal.

Therefore, upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

The terms of the original Order and its attachments remain effective and are incorporated herein by reference with the exception of paragraphs 18, 20, 22 and 28, which are hereby amended as follows:

PCB-IMPACTED WASTE REMOVAL

18. Respondent shall conduct sampling and shall perform a removal of PCB contamination located at the Site, and in those areas in proximity to the Site where PCBs may have migrated or been disposed of as a result of the activities referenced in paragraphs 8 and 9 of this CAFO, in accordance with the May 14, 2004 Work Plan, as amended over time and approved by EPA (the "Work Plan"). For any areas in proximity to the Site from which Respondent removes PCBs, Respondent certifies that it has obtained lawful and effective access agreements from the owner(s) of such property. The Work Plan is included as Attachment 1 to the original Order. By entering into this CAFO, EPA is not certifying that the transporters or disposal facilities referenced in the Work Plan are legally authorized to conduct the activities set forth in the Work Plan. It shall be Respondent's responsibility to make such determinations.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

20. Respondent shall complete all PCB activities described in the Work Plan as amended over time and approved by EPA, by the dates specified in the Work Plan.

CLEANUP OF REMAINDER OF THE SITE

22. EPA and Respondent agree that the requirements for cleanup of any PCB contamination in areas other than those referenced in paragraph 18 of this CAFO and contained in the Work Plan, as amended over time and approved by EPA, are not being addressed in this CAFO. EPA expressly reserves all its rights to ensure in the future that Respondent undertakes all appropriate cleanup measures to address PCB contamination at the Site, in areas other than those referenced in paragraph 18 of this CAFO and contained in the Work Plan, as amended over time and approved by EPA, in accordance with 40 CFR 761.61. Moreover, nothing in this CAFO shall be construed to limit in any way EPA's or the Massachusetts Department of Environmental Protection's authority to address at the Site pollutants or contaminants of any kind other than PCBs.

28. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the violations alleged in this CAFO only as to the PCB-contaminated soils in the areas referenced in paragraph 18 of this CAFO and contained in the Work Plan, as amended over time and approved by EPA. EPA expressly reserves all its rights to address violations of Section 16(a) of TSCA relating to PCB-contaminated areas of the site other than the areas identified in the Work Plan, as amended over time and approved by EPA.

In the Matter of City of New Bedford, Massachusetts; Docket No. TSCA-1-2004-0052

Moreover, nothing in this CAFO shall be construed to limit in any way EPA's or the Massachusetts Department of Environmental Protection's authority to address pollutants or contaminants of any kind other than PCBs that may exist at the Site. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

For Respondent:

Name

Title

Date

For Complainant:

Ken Moraff
Manager, Enforcement Office
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective immediately.

Sharon Wells
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

OCT 26 2004

Jane Medeiros Friedman, Esq.
Associate Solicitor - City of New Bedford
133 William Street
New Bedford, Massachusetts 02740

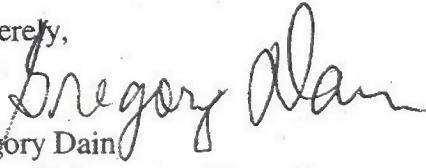
Re: In the Matter of: City of New Bedford; Docket No. TSCA-1-2004-0052

Dear Ms. Friedman:

Please find enclosed a copy of the fully executed Amended Consent Agreement and Final Order (the "Agreement") for the above-referenced matter.

Thank you for your cooperation in this matter. If you have any questions, please call me at (617) 918-1884.

Sincerely,


Gregory Dain
Senior Enforcement Counsel

cc: Marianne Milette, EPA